WAGES BOARDS IN AUSTRALIA:[1] I. VICTORIA

SUMMARY

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Introduction. — Methods of Wage Regulation

GOVERNMENTAL regulation of wages in Australia and New Zealand has taken place by one or more of the following methods: (1) The legal prohibition of the payment of a lower wage to a given class of workers than that named in the statute; (2) the legal prohibition of the payment of lower wages or rates of pay in a given trade than those agreed to in a compulsory conference of employers and employees in that trade, usually known as a wages board; (3) the legal prohibition of the payment of lower wages or rates of pay in a given trade or industry than those named in an order of a compulsory arbitration court after the hearing of an industrial dispute.

The first method, altho found in the legislation of New Zealand and all the Australian states, has for us no very great significance. Almost everywhere it was intended to put an end to a practice which had grown

[1] Expansion of lectures delivered at Harvard University, November, 1914.

up in the sweated trades of taking on youthful workers under the pretense of teaching them a trade and paying them no wages during their apprenticeship. When, after some weeks or months, the parents suggested that their children were now capable of earning wages, the "learners" were dismissed and new ones employed. The statutory minimum wage which has been established to put an end to this practice is half-a-crown (61 cents) a week in Victoria, 4 shillings (97 cents) a week in South Australia and New South Wales, and 5 shillings ($1.21\frac{1}{2}$) a week in New Zealand, Queensland and Tasmania. In the last named states an increase of two and a half or three shillings must be made each year until a minimum wage of at least 20 shillings ($4.86) a week is paid. Generally speaking, these laws apply to factories only, tho there are some exceptions.[1]

Interesting and valuable as these laws may be in accomplishing the purpose for which they were enacted, it is not they which are usually thought of when one speaks of governmental regulations of wages in Australia.

Regulation of wages by the arbitration courts is an important — perhaps the most important — method known to the people of Australia or New Zealand and it seems to be slowly gaining ground in those countries. But compulsory arbitration has a far wider range of activities than the regulation of wages, altho it is doubtful if its influence is in any respect so great as that of a regulator of wages and working conditions. It was not as a means of regulation of wages in any large sense, however, but as a means of settling industrial disputes that compulsory arbitration was thought of by those persons who were responsible for the beginnings of such legislation. The compulsory arbitration act of 1894 in

[1] Schachner, Die Soziale Frage in Australien und Neuseeland (Jena, 1911), p. 144.

New Zealand was the first measure of this sort and the control over wage scales which it authorized was supposed to be purely incidental to its main purpose. One of its supporters in the upper house of Parliament, who has since become its severest critic, said six years after the passage of the act that he found himself " driven by candor to admit that the system is not in any sense what it purports and was intended to be — a means of settling industrial disputes — and is rather a system for the regulation of the industries of the colony by means of ordinances (misnamed ' awards ') issued by a court of law." [1]

It does not seem practicable to single out the function of wage regulation from all the other numerous and important activities of the arbitration courts for separate treatment and it is not within the scope of these lectures to cover the entire subject of the regulation of industry in Australasia. Accordingly we shall confine ourselves to the work of the Australian wages boards. A further justification for this limitation is found in the fact that while wage regulation by means of such boards is a subject of experimentation and keen political controversy in our own country at the present time, and we may hope that a review of Australian experience may throw some light on the probable results of such experiments as we are making, compulsory arbitration is hardly more than an academic question with us at present, if for no other reason than that it could probably not be introduced here without amendments to our state and federal constitutions.

The revision of the Factories Act in Victoria in 1896 for the first time introduced into legislation the method of regulating wages by special boards. Altho con-

[1] J. MacGregor, Industrial Arbitration in New Zealand (Dunedin, 1901), prefatory note.

fessedly intended by its mover and supporters as a means of restricting the freedom of contract in the selling of labor under certain circumstances and conditions, it was not then contemplated that the wages boards system would become a general method of wage regulation. It was intended to have only a very limited use, for the purpose of checking the abuses which had grown up in a few highly sweated trades. For this reason we find that the most stubborn resistance which the new system encountered came not at the time of its introduction, but several years later, when the wages boards system was being extended to the non-sweated trades.

1. The Anti-Sweating Movement in Victoria

For years prior to the passage of the Factories Act of 1896, Victorian reformers and legislators had been grappling with the problem of " sweating " in various industries in Melbourne. The decline of alluvial gold-mining, which had brought such a rush of colonists to Victoria from 1850 to 1860, caused a steady drift of population to Melbourne, the only important city of the colony. Manufacturing industries prospered for a time, partly due to the cheap labor supply and partly to the protective tariff which Victoria maintained in face of the free trade tendencies of the other colonies. Speculation in land and heavy borrowing for public works helped to maintain an outward appearance of prosperity during the 'eighties. Yet those who looked below the surface saw that all was not well. *The Age*, an influential newspaper of Melbourne and the chief organ of protectionism in Australia, had begun to issue warnings as early as 1880 that certain classes of laborers in the colony were being exploited.[1]

[1] W. P. Reeves, State Experiments in Australia and New Zealand (1902), vol. ii, pp. 4–5.

The Victorian Factories Act of 1873, the first of the kind to be enacted by an Australasian legislature, did not apply to places in which less than ten persons were employed, and its administration was left to municipal councils which usually failed to act. A Royal Commission appointed in 1882 to inquire into the condition of employees in shops and the operation of the Act of 1873–74 found that a practice had grown up in the clothing and boot trades of giving out work to be done in the homes of the workers, and that this practice — usually known as " sweating " — had resulted in low wages, long hours and unsanitary dwelling places. It was also found that the practice was causing the displacement of skilled male labor by overworked and underpaid female labor. The Commission recommended among other things that " the sweating system be prohibited " and that " employees be prohibited from taking work home from the factories." [1] Altho these radical recommendations were not accepted, Parliament, stimulated in part by a strike of women in the clothing trades in 1882 and by the urging of the inter-colonial trade union convention which met at Melbourne in 1884 and which re-echoed the findings and recommendations of the Royal Commission, made some useful amendments to the Factories and Shops Act in 1885, which, however, did little to improve the conditions of the home workers.

For several years there was a lull in the agitation but, as conditions grew worse rather than better, in 1890 *The Age* renewed its attack on the sweating system and in vivid language portrayed the long hours and low wages of women employed to manufacture in their own homes the garments put out by the large clothing shops.

[1] Report of the Royal Commission on Employees in Shops and the Operation of the Victorian Factory Act, 1874 (Melbourne, 1884), pp. xi–xii.

"It is abundantly certain," said the writer, "that sweating — mean, frowsy, depraved and pitiful — is carried on in Melbourne to a degree hardly less horrible than in London." [1] A public meeting followed which was participated in by some of the most prominent and public-spirited citizens of Melbourne. Strong resolutions against sweating were adopted and Parliament was urged to take action in the matter. The Chief Inspector of Factories issued a report this year on the "Sweating System," which gave official confirmation of the stories of low wages and long hours that had been related by private investigators.[2]

Parliament made some further effort to improve the inspection and regulation of factories at this time by enacting the Factories Act of 1890. Chinese competition was the chief evil aimed at by this legislation. Tho the act of 1890 introduced some administrative reforms, it did little or nothing to prevent the evils of home work. It was not so much that Parliament was unwilling to act but that no practical solution of the difficulty had been suggested. Some reformers demanded the prohibition of the practice of giving out work to be done outside of factories, but this seemed to Parliament too drastic a remedy.

In 1893 a parliamentary board was appointed "to inquire and report as to the workings of the Factories and Shops Act, 1890, with regard to the alleged existence of the practice known as 'sweating' and the alleged insanitary condition of factories and workrooms." The use of the word "alleged" in the resolution of inquiry doubtless correctly sets forth the skepticism which many legislators and officials then

[1] Quoted by W. P. Reeves in State Experiments in Australia and New Zealand, II, p. 7.

[2] Report of the Chief Inspector of Factories on the "Sweating System" in Connexion with the Clothing Trade in the Colony of Victoria (Melbourne, 1890).

felt with regard to the representations made by the newspapers and the reformers.

The results of the investigations made by the parliamentary Board of Inquiry during the years 1893–95 showed clearly enough, however, that the reports as to the sweating of the workers had not been exaggerated. Testimony taken by the Board and evidence submitted by the factory inspectors showed, for example, that two shirt-makers worked from 12 to 13 hours a day in order to earn between them 10 s. ($2.43) a week; an entire family, consisting of husband, wife and two sons, made knickers for 10 d. (20 cents) a pair and earned collectively 7 s. 6 d. ($1.82) a day; a woman who made tennis shirts, including machining, button-holing, finishing, pressing and sewing on collar, pocket and ticket, for 2 s. 6 d. (79 cents) a dozen, was able to make from four to five dozen a week, oftentimes working till midnight to do so; a tweed trousers' maker, who was an expert tailoress, worked from 13 to 14 hours per day and sometimes on Sundays, in order to earn 12 s. ($2.92) a week, at 6½ d. (13 cents) a pair; another woman, aided at times by her invalid sister, made childrens' pinafores at 1¼ d. (2½ cents) apiece, and her wage book for a series of six consecutive weeks showed weekly earnings of from 8 s. 1½ d. ($1.97) to 11 s. 7 d. ($2.81), while for every 7 s. ($1.70) earned she was obliged to expend 6 d. (12 cents) for sewing thread.[1]

Other evidence equally convincing as to the need of reform was furnished by other witnesses. Especially illuminating was the statement of a woman who had to support an invalid husband and several children. She was an expert tailoress and had worked at the trade in London since she was a child. The lowest price at

[1] Minutes of Evidence, Factories Act Inquiry Board, pp. 71, 77, 80, and Report by Miss Cuthbertson, Female Inspector, in Report of Chief Inspector of Factories, 1895, p. 17.

which she made vests for the London sweaters was 8 d. (16 cents) apiece, but in Melbourne she was paid for the same work only 6 d. (12 cents) apiece altho the log established by the tailoresses' union for this work was 2 s. 9 d. (67 cents).[1]

The evidence submitted to the parliamentary board showed further that the competition of those manufacturers who gave out work to be done in the homes was forcing reputable firms who carried on their work in factories and who were willing to pay the log prices fixed by the tailoresses' union to suspend their factory operations and put out their work through the sweaters. The Report of the Chief Inspector of Factories showed that the number of factories had decreased from 2,548 in 1891 to 2,243 in 1893, and the number of workers in factories from 47,813 in 1890 to 34,268 in 1894.[2] Part of this loss was attributable to the industrial depression in the colony, but nevertheless it was shown that the sweating went on in good as well as in bad times.[3] The tailoresses' union, composed entirely of factory workers, which had had a membership of nearly two thousand, numbered at the time of the investigation only thirteen members, altho the dues had been made as low as 2 d. (4 cents) per week.[4]

Another evil brought to light by the investigation was the abuse of the apprenticeship system in the clothing trade, whereby children were taken on under the pretense of teaching them a trade and were employed at little or no wages at some one process of manufacture so that they had no opportunity to learn the trade.[5]

[1] Quoted from reports of Anti-Sweating League in Austral Light, October, 1896. (Manuscript copy in office of Chief Inspector of Factories in Melbourne.)

[2] Report of Chief Inspector for 1895, p. 4.

[3] Minutes of Evidence, Factories Act Inquiry Board, p. 80.

[4] Ibid., p. 15.

[5] First Progress Report, Factories Act Inquiry Board (1893), pp. 23–24.

Still another difficulty was Chinese competition in the furniture trade, which had cut down the number of European cabinet makers from 200 or more to about 60 or 70, and their wages from 9 s. ($2.19) a day to less than half that amount.[1] The competition was so keen that the Chinese, in spite of their low standards of living, were barely able to earn a subsistence and had only a short time before struck against a twenty per cent reduction in their wages.[2]

The Factories Act Inquiry Board made many recommendations of legislation intended to improve the condition of factory workers and to regulate the giving out of work to be done outside the factory. Altho most of these recommendations were accepted by Parliament and were incorporated into the Factories Act of 1896,[3] none of them seemed to promise an effective remedy against sweating. Neither colonial experience nor that of the mother country pointed the way to a solution of the difficulty. It was feared that the entire prohibition of home work would cause more suffering than it would cure. To regulate the hours of labor for such work would require such a force of inspectors as to seem impracticable.

The things on which the reformers laid chief emphasis were legislation requiring home workers to take out a license, in order that the inspectors might the more readily supervise homes used as working places, and the requirement that ready-made clothing should bear the name and address of the worker so that the would-be purchaser might know that it was the product of the sweaters' victims. These appeared but feeble weapons

[1] Second Progress Report, Factories Act Inquiry Board (1894), pp. 5, 8.

[2] Ibid., pp. 7–8.

[3] Mr. Peacock, who introduced the measure, said that "the greater portion of the recommendations of the Board had been incorporated in the bill." Speech on Second Reading, Oct. 17, 1895, Victorian Parliamentary Debates, vol. 78, p. 2635.

for so formidable an enemy as the sweating system, but even these suggestions met with bitter opposition on the part of the manufacturers and their supporters in Parliament.

2. The Origin and Introduction of Wages Boards

Two witnesses who appeared before the Factories Act Inquiry Board of 1893–94 to give testimony concerning the sweating system offered suggestions which pointed the way towards the solution of the sweating problem which was finally adopted. One of these witnesses was Rev. A. R. Edgar, pastor of the Wesleyan Church, who had interested himself in the problem of the sweated workers in the very first week of his pastorate in Melbourne and whose church was one of the important centers of the agitation against sweating. Mr. Edgar suggested that a remedy for the sweating evil might be found in fixing the wages of the workers by legislative enactment.[1] Just how this was to be done does not appear from the reports of the hearings, but Mr. Edgar informed me that he had some such idea as the wages boards in mind, even tho perhaps the idea had not taken definite form. A clearer suggestion of the wages boards is found in the testimony of Mr. Charles E. Glass, an importer and vendor of sewing machines, whose business brought him into close contact with the home workers, in whose welfare he seems to have taken a strong interest. Mr. Glass recommended to the Board that a minimum rate of wages for workers in any of the sweated trades be established by a committee appointed by the Minister on the application of a section of workers in that trade.[2]

[1] Minutes of Evidence offered before Factories Inquiry Board, p. 74.

[2] Minutes of Evidence, Factories Act Inquiry Board, p. 82.

The pertinency of these suggestions seems not to have been appreciated by the members of the Inquiry Board, or perhaps they did not believe them to be practicable. At least they are not referred to in their report and recommendations, nor do they appear to have exercised any influence on subsequent legislation.

The author of the wages boards plan which was incorporated in the Factories Act of 1896 was Mr. (now Sir) Alexander Peacock, who had recently become Chief Secretary of the Colony in the Turner ministry. The agitation against sweating was at its height, and Mr. Peacock interested himself in the matter and personally visited the homes of many of the out-workers. "I found," he says, "that these people were working excessive hours at grossly sweated rates of pay in poor and cheerless homes and generally under wretched conditions." [1]

Sir Alexander has told me that he and the Chief Inspector of Factories, Mr. Harrison Ord, held many conferences in which they endeavored to find a practicable remedy for the sweating evil. Tho familiar with the proceedings of the Factories Act Inquiry Board, Mr. Peacock does not remember to have heard of the suggestions made by Messrs. Edgar and Glass. The plan which was adopted was suggested to Mr. Peacock by his own experience when, as a youth, he had been a clerk in a mining company's office near Ballarat. The owner of the mining property, a rough man who had himself been a miner, had announced a reduction of 3 s. (73 cents) a week in the wages of his men, who offered bitter opposition to the reduction and asked for a conference with their employer. At this conference young Peacock acted as secretary. The employer

[1] Statement by Sir Alexander Peacock in unpublished manuscript in office of Chief Inspector of Factories of Victoria.

argued that as there had been a decline in the prosperity of the business, the men ought to be willing to share in the reduction of profits. The men replied to this by pointing out the way in which they were obliged to live and successfully appealed to the employer's knowledge, as an old time comrade, of what effect a reduction of three shillings a week would have on their standard of living. The recollection of this crude experiment in collective bargaining led Mr. Peacock to think that what had been done in mining might be done in other industries by compelling employers to meet with their employees to arrange wage scales. Mr. Ord gave his approval to the plan, which, stated in Sir Alexander's own words, was as follows:

> The idea was to bring together an equal number of employers and employees, not exceeding ten[1] on each Board, to provide these ten representatives with a Chairman and to give to the Boards so constituted power to fix the rates to be paid, either wage or piece work as the Board thought fit, for any work done in connection with the trades subject to such Special Board's jurisdiction.[2]

The agitation against sweating had resulted in the formation in Melbourne on July 23, 1895, of the National Anti-Sweating League of Victoria, which elected officers, established permanent quarters and henceforth directed the movement to abolish sweating. A committee of this organization was formed to draft legislation and in the offices of the League were drafted the provisions of the bill which later became the Factories Act of 1896.[3] In it were incorporated Mr. Peacock's plan for Special Boards to establish minimum wages in the sweated trades.

[1] As originally drafted and introduced the bill provided for only five persons, two employers, two employees and a chairman elected by them.

[2] Statement in manuscript in Chief Factory Inspector's office in Melbourne.

[3] Statement from The Tocsin, June 19, 1903, on the back of the membership card of the National Anti-Sweating League.

The bill carrying the wages boards provisions was first submitted at the parliamentary session of 1895. Section 14 of this bill provided that the Government might appoint within any district a board of five persons, composed of two employers and two employees in the trade and a fifth person elected by them to fix the minimum wages for all persons " under the age of 16 years or any woman or girl " engaged either within or without a factory in the manufacture of wearing apparel including boots and shoes. Mr. Peacock, who introduced the bill in the Assembly, described the work of the proposed board in the clothing trade as follows:

> This board after getting the necessary information will fix the prices that are to be paid for certain articles enumerated. At present this provision is to be confined to three or four articles, — women's blouses, men's shirts and slops, and women's underclothing. It is not proposed to fix the rates of pay for other articles as yet.[1]

When the bill was under discussion in the committee of the whole, the Government was strongly urged by several members of the Assembly [2] to permit the section relating to the wages boards to be amended by striking out the words " under the age of sixteen years, or any woman or girl," in order that the provisions relating to the minimum wage might be established for *all* workers in the clothing trade, but Mr. Peacock said he regretted he could not see his way to adopt the amendment. He said:

> The present Factories Act was placed on the statute-book primarily with the object of protecting the weaker sections of the community — women and young persons under sixteen years of age. The bill was designed to extend that principle, and the Government, after consideration, could not see their way clear to bring male adult labor under the clause.[3]

[1] Speech on Second Reading, Parl. Debates, vol. 78, pp. 2646–2649, 3143.

[2] Ibid., pp. 3144–3148.

[3] Ibid., pp. 3144–3145.

In spite of Mr. Peacock's opposition to the amendment, the committee decided to strike out the phrase which limited the boards' determination to the wages of women and children. The feeling was expressed that if a minimum wage were fixed for women and children and not for men " the result would be that the work would ultimately be done much cheaper by the men under a sweating system, and women and children would get no work at all." [1] One member (Mr. Trenwith) spoke prophetically when he said that if the principle of the minimum wage were made applicable to men as well as to women and children " the board which would fix the minimum wage would be a perpetual board of arbitration and would do away with harassing, vexatious and painful strikes." [2]

The motion to strike out the words which limited the minimum wage to women and children carried in the committee by a vote of 49 to 20, Mr. Peacock voting in the negative.[3]

Other amendments made to the bill while it was still in the Assembly were the addition of the furniture manufacture to the trades for which boards were provided,[4] and the addition of a section which provided that " no person whosoever, unless in receipt of a weekly wage of at least 2 s. 6 d. (61 cents) shall be employed in any factory or work-room." This latter amendment was intended to correct an abuse already mentioned, viz., the employment of young persons as learners or apprentices without paying them any wages and without teaching them any trade. Legislation of this sort had been strongly urged by Mr. Ord who had discovered that during the year 1895 not less than 349 girls had

[1] Parl. Debates, vol. 78, p. 3146. [2] Ibid., p. 3147.

[3] Ibid., vol. 79, p. 3150.

[4] Proposed by Mr. McColl, Parl. Debates, vol. 79, pp. 3203–3204.

been employed without wages in the dress-making trade alone.[1]

The bill as passed by the Legislative Assembly (the lower house) provided: (1) " one board for each district for the clothing and the boot trades to fix the lowest prices for work; (2) one board for each district for the furniture trade, to fix the lowest prices for work; (3) one board for each district to fix the number of apprentices and improvers; (4) one board for each district to fix the hours of labor." [2] When the bill reached the Legislative Council (the upper chamber) this complicated machinery was much simplified by providing one board in each of the trades for the entire colony and giving to this board the authority to fix for its own trade not only the prices to be paid for work but also the proportion of apprentices and improvers and the hours of work for women and children only.

The bill as amended failed of passage at this session of Parliament. This was due not so much to the provisions creating the special boards as it was to the failure of the two houses to agree to the proposal to require workers outside of factories to secure permits from the Factory Inspector's office for carrying on manufacturing operations in their homes, and to a disagreement in regard to payment for overtime work. The bill was therefore retained by the Assembly and further action on it was postponed until the following session.[3]

In the lengthy debates on the bill which took place in both houses much less attention was directed to the sections relating to wages boards than was given to the question as to whether permits should be required for the out-workers. Nevertheless the wages boards received a fair amount of discussion. The proposal to

[1] Report of the Chief Inspector of Factories for 1895, pp. 21–22.

[2] Parl. Debates, vol. 80, p. 5479. [3] Ibid., p. 6293.

establish them was frankly admitted by Mr. Peacock to be a departure in industrial legislation.[1] He defended it on the ground that it would abolish sweating since manufacturers who had their work done outside the factories would have to raise the wages paid to their workers.

Viewed in the light of the revelations made by the various investigating commissions and factory inspectors, it is clear that the framers and supporters of the bill believed that inasmuch as the low rates of pay given to out-workers had caused many factories to close, the wages boards by bringing about higher wages would cause a reopening of the factories.[2] It was with the view of accomplishing this end that the friends of the bill in the Assembly insisted so strenuously on the retention of the clause which required a permit from the Factory Inspector before manufacturing work could be carried on in the home. This was properly called the "crux of the whole measure."

The bill itself was not made a party measure in either house. Some of the strongest support for the wages boards came from the Opposition. One of the members from that side of the Assembly [3] said that this section was "one of the best, if not the best in the Bill," and that he was in "thoro accord" with its provisions and believed that they would be "a means of doing away with sweating almost altogether." On the other hand, there were the advocates of *laissez-faire* who warned their colleagues that "any interference with the relations of private employers and their employees, however well-intentioned that interference might be, would do more mischief than good" and that if Parlia-

[1] Speech on Second Reading, Parl. Debates, vol. 78, p. 2648.

[2] One of the supporters of the bill (Mr. McColl) said: "The Chief Secretary (Mr. Peacock) wants to get every one into factories." Parl. Debates, vol. 78, p. 2653.

[3] Mr. McColl, Parl. Debates, vol. 78, p. 2654–2655.

ment attempted to compel employers in the clothing trade to pay remunerative rates of wages to the employees it would destroy the trade altogether and the employees " would not get any wages at all." [1]

To this argument Mr. Alfred Deakin, then as now one of Australia's leading statesmen, pointedly replied that while it was true that " the limit of wages must be affected by the prices of the products of that labor," this did not settle the entire question at issue. The people still needed to be shown that an undue share of the product did not go to the middleman or other trades. But, he continued:

> Supposing that the worst came to the worst and these boards when appointed were obliged to fix a starvation rate of wages as the only rate which the clothing trade could afford to pay, it would be something for them to know that without any undue profit-taking by middlemen, this trade could only be carried on at the starvation point.[2]

Mr. Deakin later on drew an interesting analogy between the regulation of wages by means of these boards and that by the craft gilds in mediaeval times,[3] and with something like prophetic insight he predicted that " one day or other those boards would be established in every trade," and that they " would furnish the solution of a number of problems which were perplexing this and every other legislature."

When the bill reached the Legislative Council it was subjected to fierce criticisms by the members who represented in large part the employing interests in the colony. Altho criticism was directed chiefly against the clause which required permits for workers outside

[1] Mr. Murray-Smith in Parl. Debates, vol. 78, p. 3148.

[2] Parl. Debates, vols. 78–79, pp. 3148–3149.

[3] Ibid., vol. 79, p. 3452.
This resemblance between the wages boards and the craft gilds was also noticed in the Legislative Council by M. H. Embling, Parl. Debates, vol. 79, p. 4325.

of factories, the section relating to the wages boards did not escape unfavorable comment.

The leader of the Opposition in the Council was Sir Frederick Sargood, a prominent boot manufacturer, who appeared to be held somewhat in awe by his colleagues. Few seemed willing to challenge his opinions on business matters. Sir Frederick spoke with scorn of the impracticability of applying the wages boards plan to modern business and he spoke sneeringly of the lack of knowledge of practical affairs possessed by the gentlemen who had introduced the bill in both houses.[1] When boiled down, however, his opposition seemed to be not so much to the boards themselves as to their proposed size and mode of selection. He was opposed to the idea of having the members of the boards appointed by the Minister and he

> desired to emphasize the fact that no four men could possibly carry out the duties so cast upon them. The only way in which it was possible to have a board which would be at all satisfactory was to have it elected by the employers and the employees.[2]

Furthermore, when the Council had appointed a committee to consider the bill and to suggest amendments, Sir Frederick was named as chairman and when the committee reported the bill back with amendments it did not recommend the elimination of the wages boards from the bill.

Most of the debate on the boards in the Council revolved around the question as to whether the board members should be appointed or elected, altho there were members who objected to the boards on principle. It was said that they would do away with " personal liberty " and would " determine whether a poor widow was to be allowed to work for an honest living for her-

[1] Parl. Debates, vol. 79, pp. 4320–4321. [2] Ibid., p. 4322.

self and her fatherless children." [1] The boards would "ruin industry." [2] They would "never get through the work of classifying articles in the boot, furniture and clothing trades and deciding what prices should be allowed for labor." [3] "Nothing which Parliament could do, it was said, would stop sweating which existed in nearly every large city in the world." [4]

Very little was said in the Council in favor of the boards and that little was said hesitatingly. The bill was referred to a select committee of the Council to take testimony from interested parties as to their attitude towards the measure. The committee held nine sittings, and examined thirty-two witnesses representing employers and employees in trades which would be affected by the measure, and also the officers who would be charged with the enforcement of the act if passed.

With few exceptions, the employers who appeared before the committee objected to the provision for wages boards. The representative of the Victorian Chamber of Manufacturers said that it was "the unanimous opinion of the whole of the members of the Chamber of Manufacturers present" (at the meeting held to discuss the bill) that no board can do effectively the work sought to be imposed upon it." [5] Even tho the members of the clothing board were elected by operatives and manufacturers it was said, "they could not have a technical knowledge of each of those trades in all the various branches, with the constant changes of fashion, shape and style and in the number of stitches in a garment." The force of this objection was considerably weakened by its being shown that in the boot and cloth-

[1] D. Melville, Parl. Debates, vol. 79, p. 4405.

[2] Ibid. [3] Ibid., p. 4412. [4] Ibid.

[5] Report of the Select Committee of the Legislative Council on the Factories and Shops Act, 1890, Amendment Bill. Minutes of Evidence, pp. 14–15.

ing trades, voluntary boards composed of employers and employees had for many years fixed the log of prices to be paid for various classes of work.

Practically the same objections were raised by representatives of the boot, clothing and furniture trades.[1] A very few of the employers expressed a willingness to see the board plan tried [2] but insisted that both employers and employees must be allowed to elect their own representatives on the boards.

Most of the workmen who appeared before the committee expressed themselves as in favor of the wages board proposition, altho they confessed that there might be difficulties in the operation of the plan.[3] Even the Chief Inspector of Factories, Mr. Harrison Ord, and his assistant, Miss Cuthbertson, altho in favor of the board plan, were uncertain as to how far it could go in regulating wages in the various trades. They pointed out that the bill did not contemplate any general regulation and that even within the trades to which it was to be applied, prices were to be fixed for making only a very few articles.[4] The aim of the Government officials at this time seemed to be to show that the field of operations of the wages boards would be a very narrow one. Mr. Charles A. Topp, the Under-Secretary for the Colony, expressed well this attitude when he said:

> It will be noticed that a Board may be appointed by the Governor in Council to fix the price for any particular article of clothing or wearing apparel, not clothing or wearing apparel, generally. . . . Objections, I notice, were raised by several witnesses in regard to the difficulty of fixing wages and prices for such articles as mantles, skirts, millinery and so on. I have no doubt there is great force in those objections, but it was never contemplated that the Board would fix prices for such elaborate articles of attire, but there are

[1] Report of the Select Committee of the Legislative Council on the Factories and Shops Act, 1890, Amendment Bill. Minutes of Evidence, pp. 1–50.

[2] Ibid., Minutes of Evidence, pp. 49–60. [3] Ibid., pp. 60–67.

[4] Minutes of Evidence.

certain articles of tailoring done by women for which logs have already been fixed and worked with success for many years.[1]

In view of the objections raised by employers to the wages boards and the rather hesitating support which the boards received from employees and government officials, and in view of the fact that four of the eleven members of the select committee, including the chairman, had denounced the wages boards plan in the debates in Council, it is surprising that this committee in its report to Council retained in the bill the section providing for wages boards. This section was, however, greatly changed from the form in which it came from the Assembly and it must be said that it was much improved. The business men of the Council, having decided to accept the wages boards plan, proceeded to reshape the clauses along practical lines and it is quite possible that had these changes not been made the wages boards plan would have proved quite unworkable. The committee reported on this part of the bill as follows:

> The balance of evidence is in favor of the appointment of a separate board for each trade, *i. e.*, clothing or wearing apparel, boots and shoes, and furniture. Each Board should consist of not more than five representing the employers, and not more than five representing the employees, as may be prescribed.
>
> Each Board should be elected half by the employers and half by the employees.
>
> Employers to vote according to the average number of hands in their employ, including outside workers, and to be entitled to vote according to the class for which each factory pays registration fee, viz.: factories employing one to ten hands, one vote; eleven to thirty hands, two votes; thirty-one to sixty hands, three votes; sixty-one hands and upwards, four votes.
>
> All employees working in factories to be entitled to vote for four representatives.
>
> All outside workers to be entitled to vote for one representative.
>
> The Chairman should be elected by each Board, or failing agreement, by the Governor in Council.

[1] Report of the Select Committee of the Legislative Council on the Factories and Shops Act, 1890, Amendment Bill. Minutes of Evidence, p. 94.

Each Board should be for the whole colony and should fix the lowest prices, also the proportion of apprentices and improvers.

Each board should have the power of deciding the hours of labor of girls, women and children, only.[1]

The bill with the amendments suggested was returned to the Assembly, which seemed willing to accept the changes relating to the wages boards. Inasmuch as the two houses could not agree in regard to the matter of permits to out-workers, the bill was not passed at this time but was retained by the Assembly until the following session.

During the recess the bill was much discussed in the newspapers and from the political platforms. The Council was severely taken to task by Mr. Alfred Deakin for its refusal to require permits from the out-workers and was strongly defended by Sir Frederick Sargood. The Anti-Sweating League kept up a determined fight for the inclusion of this clause, but at a conference held between a committee of this organization and the Legislative Council Committee it was agreed to substitute for the system of permits a plan of registering the out-workers, — the register not to be open to the public.

The bill was again introduced in the Assembly by Mr. Peacock at the 1896 session of Parliament and was passed by that house in exactly the same shape in which it was left by the Assembly at the close of the preceding session. It was amended in the Council by providing for the registration of the workers outside of the factories and by adding " bread-making or baking " to the trades for which a special board was authorized to fix hours of employment and a minimum wage.[2] The amendments were at once accepted by the Assembly

[1] Report of Select Committee, p. iv.

[2] Parl. Debates, vol. 81, pp. 378–380.

and it received the Governor's assent and became a law on July 28, 1896.[1]

The principal features of the wages boards legislation thus established [2] have already been described in the recommendations made by the Select Committee of the Council. The special boards were to be provided only for the clothing, boot, furniture and bread-making trades, there being a separate board for each trade. Each board was authorized to determine the lowest price or rate which might be paid to any person for performing the labor of manufacturing either inside or outside a factory. For factory work, piece-work prices or time wages or both might be fixed, but only piece-work rates were to be prescribed for work done outside factories. In fixing the rates of pay the board was to take into consideration the nature, kind and class of work and the mode and manner in which the work was to be done and any matter which might from time to time be prescribed. The board was also to determine the number or proportionate number of apprentices or improvers under the age of eighteen years who might be employed within any factory or work-room and their lowest rates of pay.

The determinations reached by the board were to be published in the Government Gazette and were to go into effect in not less than fourteen days thereafter on the date specified. The determinations were to be posted in a conspicuous place at the entrance to the factory or work-room and a copy furnished to every person or firm giving out work to be done outside a factory. The payment of lower wages than those specified was punishable by fines which increased with repetitions of the offense. A third offense brought not only a heavy fine but required the Chief Inspector

[1] Parl. Debates, vol. 81, pp. 384, 730. [2] Section 15.

of Factories to cancel the registration of the factory or work-room.

Each board was to consist of from four to ten members equally divided between employers and employees within the trade and elected by them. The members of the board were to elect a chairman, not of their own number, and in case they failed to agree on one, he was to be appointed by the Government. The chairman was to have the deciding vote in all cases where the board members were unable to agree.

The act itself did not prescribe the mode of electing the representatives of employers and employees on the boards, but left this to be fixed by the Executive Council. Regulations were adopted on September 21, 1896, providing that occupiers of registered factories subject to the special board determinations who had paid a registration fee of less than 21 s. ($5.10) should have one vote, those whose fees were 21 s. and less than 42 s. ($10.20) should have two votes, those whose fees were 42 s. and less than 63 s. ($15.30) should have three votes and those who had paid 63 s. or more should have four votes.

The names of employees entitled to vote were taken from the lists which employers were required to furnish. If the workers outside factories exceeded one-fifth of the total number of employees in a given trade they were entitled to nominate and elect one of the five representatives of employees; otherwise they voted with the employees engaged in factory work.[1]

There were other excellent features of this Victorian Factories Act of 1896, some of which had already appeared in the laws of other countries, while others now found their way into legislation for the first time. But they do not concern us at this point. Taken as

[1] Regulations of Executive Council, September 21, 1896.

a whole, the act seems to have justified the statement of Chief Inspector Ord that it was "probably the most advanced Factories and Shops Act in the world." [1]

3. *Extension of the Wages Boards System and its Struggle for Existence*

The framing of regulations and the preparation of electors' rolls from the lists of names supplied by manufacturers occupied nearly all of that portion of the year 1896 which remained after the passage of the Factories Act. It was not until November 2, 1896, that an Order in Council was issued for the election of the first boards. A board of ten members (exclusive of the chairman) was provided for each of the following trades: (1) boots and shoes; (2) articles of men's and boys' clothing; (3) shirts; (4) all articles of women's and girls' underclothing; (5) bread-making or baking.[2]

The board for the furniture trade was not provided for at this time because it was discovered that if the board members were to be elected "the Chinese could have elected the whole or a large majority of the representatives on such board." [3] As such an outcome was not deemed desirable, Parliament was appealed to at the next session to amend the act so that the members of this board might be appointed by the Governor in Council. This change was accordingly made.

The Bread-making Board was the first to be organized and had no great difficulty in reaching a determination, inasmuch as it did not have to work out a schedule of piece-work rates. The minimum wage in

[1] Report of the Chief Inspector of Factories, etc., for 1896, p. 3.

[2] Ibid., p. 7.

[3] Report of Chief Factory Inspector for 1897, p. 5.

this occupation was fixed at 1 s. (24 cents) an hour and the determination became effective in April, 1897.[1]

The (Men's) Clothing Board met for the first time on January 26, 1897, and with peculiar fitness elected as its chairman Rev. A. R. Edgar, who had done so much to bring about this legislation. The work set for this board was an arduous one, for it had to fix not only time wages for men and women but to work out an elaborate schedule of piece rates. It was not until October 19, 1897, that the final determination was reached. It fixed 7 s. 6 d. ($1.80) per day as the minimum wage for adult males and 3 s. 4 d. (81 cents) per day for adult females, with a sliding scale for apprentices and improvers varying with age and experience. The piece-work rates numbered thousands of items and covered when printed thirty-five pages of closely printed fools-cap. They were fixed (1) for males on order work, (2) for females on order work, (3) for females on "slop work." [2]

The Boot and Shoe Board was organized on February 11, 1897. For eight months the Board met at frequent intervals and on November 3d it fixed a minimum wage of 7 s. 6 d. ($1.82) per day for adult males and 3 s. 4 d. (81 cents) per day for females. When the determination was published the manufacturers lodged a protest against its enforcement, on the ground that the high minimum rates would disorganize industry, ruin the export trade and lead to wholesale dismissals. Parliament being in session, it was decided to insert a clause in the bill amending the Factories Act so as to give the Governor in Council power to suspend the determination of any Board for a period not to exceed six months.[3]

[1] Report of Chief Factory Inspector for 1897, p. 5. [2] Ibid., p. 6.

[3] Report of Select Committee of the Legislative Council on the Factories and Shops Amendment Bill, 1897, pp. iii–iv.

The Government then suspended the determination in the boot trade and referred the matter once more to the Board. The Board thereupon reduced the minimum wage for males to 6 s. 8 d. ($1.62) for clickers and 6 s. ($1.46) for all others. The piece rates were not reduced, which meant that they would seldom be paid. This, thought the Chief Inspector, meant that the "safe-guard of the old and slow workers was removed."

The Board to fix the rates of pay for workers engaged in the manufacture of shirts, collars, cuffs, etc., met at intervals during the year 1897 but, owing to the difficulty of fixing piece-work prices, did not reach a determination until January, 1898. Much sweating was said to exist in this trade and the out-workers were eagerly awaiting the determination.[1]

In the Women's and Girls' Underclothing Board many difficulties arose in connection with the fixing of piece-work prices and dissensions appeared among the members, so that after more than a year's effort to come to an agreement the board resigned in May, 1898. Another board was appointed in August of that year and after nearly another year's delay reached a determination in June, 1899. "There is no trade," said Mr. Ord in his Report for 1898, "in which there is more sweating than in the manufacture of underclothing and the great delay which has through various circumstances occurred in making a determination has been a great misfortune."[2] Miss Tate, one of the inspectors, reported that the price paid for making underclothes by one of the large city warehouses was 1 s. 6 d. (36½ cents) per dozen pieces. A woman could make one dozen pieces in a day of nine hours and out of this pay of 9 s.

[1] Report of Chief Inspector, 1897, p. 9. [2] Ibid., pp. 18–19.

($2.19) a week, she had to provide her own thread and pay for returning the goods to the warehouse.[1]

The Furniture Board, the only one not elected, did not meet until February, 1897, but was able to reach a determination by March 24th. Altho the law required that in this trade both time and piece-work rates be fixed "whenever practicable," the Board did not fix piece-work rates but established a minimum wage of 7 s. 6 d. ($1.82) for the important branches of the trade.[2] This benefited the European workers, but proved impracticable in the Chinese factories and led to consequences which will be later described.

Postponing for the present the discussion of the results of the wage board legislation on the industrial and social life of the colony, we may say that three years of experience with the wages boards system had been sufficiently successful to warrant the Victorian Parliament in 1900 in not only continuing the experiment but in extending it to other trades. It would be far from true to state that the success of the experiment was generally admitted. To many employers it appeared to be a heavy load on industry and even to some of the workers (the old and infirm) it brought suffering rather than relief. But viewed in the light of present knowledge it would be fair to say that the following statement made by Mr. Ord in his annual report for 1898 presented an adequate summary of the results of the system during the first several years:

> With a full knowledge of the significance of the statement, I say I believe the system has been successful. I do not for a moment claim that the system is perfect, and propose immediately to point out defects. That it has to a large extent prevented the worst evils of free competition appears to me beyond a doubt.[3]

[1] Report of Chief Inspector for 1898, pp. 18–19.

[2] Ibid., p. 10.

[3] Ibid., pp. 4–5.

The Factories Act of 1896 was to continue in force only until January 1, 1900, unless Parliament was in session, in which case it was to lapse at the end of the session unless re-enacted by Parliament. In October, 1899, Mr. Peacock introduced a bill to continue the act and extend its scope. This bill, after extended discussion and after being amended in several important particulars, became a law on February 20, 1900, to become effective on May 1st of that year.

The principal changes made in the wages boards legislation by the Act of 1900 were (1) the addition of the business of a " butcher or seller of meat " to the trades for which special boards were provided; (2) granting permission to the Government to provide a special board for any other trade " usually or frequently carried on in a factory or work-room " if either house of Parliament by resolution declared it to be expedient; (3) giving to the boards authority to fix " the maximum number of hours per week for which such lowest wages, price or rate, shall be payable " according to the nature or conditions of work; (4) giving the boards authority to fix rates of pay, higher than the minimum, for overtime; (5) providing that where a board fixed both time wages and piece-work rates in the same trade the piece-work rates must be fixed on the basis of what a man of average ability could earn on time wages; (6) providing that the determination of a special board should be applicable to every city or town and might be extended by the Governor in Council to any borough or shire or part of a shire; (7) providing that whenever it was proved to the satisfaction of the Chief Inspector that any person by reason of age or infirmity was unable to earn the minimum wage fixed by the board, the Chief Inspector might grant him a license for twelve months to work at a less wage (named in the license) and might

renew the license from time to time; (8) continuing the statutory minimum wage of 2 s. 6 d. for apprentices and improvers and making it a punishable offense to evade the provision by the exaction of a premium or bonus either directly or indirectly for engaging a female apprentice or improver in making articles of clothing or millinery.

These were important amendments and they did much to give stability to the new mode of wage regulation. They were not adopted, however, without a struggle on the part of employers, especially those represented in the Chamber of Manufactures. Representations made by this body were to the effect that the factory acts were in many ways injurious to the trade and industry of the colony; that they were causing a scarcity of labor, were reducing the export trade of the colony and were not causing the increases of wages which had been claimed.[1]

The same objections were repeated in the debates on the bill in the Legislative Council. Very little evidence was submitted in support of the claims of the manufacturers, and on the whole there was very little criticism of the effects of the previous legislation. Many members who were doubtful as to the advisability of extending the wages boards legislation to other trades were willing to admit that beneficial results had followed the 1896 act, and that sweating had been done away with, altho there were others who claimed that this latter result was incidental to a return of prosperity and was not due to the regulation of wages.

On the whole the most thoughtful speech on the bill was that made by Sir Henry Wrixon, who said apropos the proposal to have a Royal Commission investigate the workings of the act:

[1] Parl. Debates, vol. 93, p. 3004.

> The real operation of the factory laws — their far-reaching effects, the way in which they will influence industry, the effects they may have on exertion, how far they may divert the energies of the people from a useful course — all these are things which you will not find out in two or three years, nor perhaps in ten or twenty years. The whole thing must be left to experience and no inquiry you can hold now will give you the real lessons which only time and experience can teach with regard to factory legislation. . . . The real operations, the real effect of the State taking on itself to direct the industry of the people and to control their action in the minute manner in which this has been attempted, is a matter the result of which may not be seen, perhaps, in this generation. It will gradually wear itself out whether we like it or whether we do not. Whatever we may think, or whatever we may wish, certain results will follow, and those results can only be proved by experience. . . . The only thing we can do is to try the experiment fairly, and as time goes on the results will be made clear gradually and then the community will be able to learn the lesson that experience has taught.[1]

The objection most strongly urged against the amendments was that they proposed to extend the methods of regulation by wages boards to trades " in which there has not been a single complaint with regard to sweating." [2] Fear was expressed that there was danger of introducing the theory of a minimum wage in industry which it was said was merely " a return to the legislation of the Middle Ages." [3]

The Government, however, was able to show that in asking for an extension of the wages boards system to other trades than those named in the 1896 act it had acted in response to requests not only from workingmen but from employers, — some of them employing a considerable number of workingmen. Thus in the cigar-making trade, eight out of nine manufacturers with £50 licenses and 29 having £5 licenses had asked for a special board to fix a minimum wage for their trade. Seventeen employers in the harness and saddlery trade had signed a petition in favor of a board on

[1] Parl. Debates, vol. 93, p. 3011.

[2] Ibid., p. 3012.

[3] Ibid., p. 3007.

account of the disorganized condition of the trade. Thirty-four employers in the marble masons' trade alleged that sweating existed in their trades and asked for a special board. Eighteen of the largest firms in the printing trade and thirteen employers in the tanning trade had asked for boards for their trades. On the side of the employees there was a petition from 269 men employed in saw-mills asking that a board might be appointed to consider their case.[1]

Sir Frederick Sargood, who still led the Opposition in the Legislative Council and who, it will be remembered, derided the wages board idea in 1895 as impracticable, tho still very critical of the new legislation, acknowledged that a "considerable amount of good has arisen" from the Act of 1896 and said that there were many employers who were asking for boards for their trades. He said:

> It is within my own knowledge, apart from the information that the Solicitor-General has read, that there are a large number of trades that, rightly or wrongly, believe that it would be to their interest — and I am speaking now more of the employers than the employees — to come under the Factories and Shops Act. At present they are at sixes and sevens; they believe that it will be fairer if all, large and small, are put on the same footing.[2]

The Act of 1900 carrying the amendments above described was enacted for a further period of two years. Parliament insisted, however, in coupling these amendments with another one which provided for the appointment of a Royal Commission to inquire into the operation of the Factories Act and to report to Parliament. The Victorian Chamber of Manufactures had asked that such an investigation be made before the factory laws were re-enacted.

Parliament acted quickly in response to the powers given by the act of 1900 and provided during that year

[1] Parl. Debates, vol. 93, p. 2992. [2] Ibid., p. 2998.

boards for 21 trades in addition to those already covered by the Act of 1896. As many of these, such as the carriage, printing, engraving and jewelry trades, could not be suspected of being sweated trades, it was obvious that a great change in the principle of wage regulation had been introduced by the Act of 1900.

The Royal Commission to inquire into the operation of the Factories and Shops Act was appointed by the Governor in Council on June 18, 1900. It was composed of twelve members, headed by the Hon. Alexander Peacock and having as one of the members Sir Frederick Sargood. Before it had accomplished any important work the elections of 1900 occurred. Sir Frederick Sargood and four other members were not returned to Parliament and therefore ceased to be members of the Commission. Mr. Peacock and one other member resigned from the Commission, which was reconstituted in 1901 with Hon. A. R. Outtrim as President.[1] The Commission took voluminous evidence during the years 1901 and 1902 and visited other colonies to investigate the workings of compulsory arbitration and early-closing acts. Its report was not ready when Parliament met in May, 1902, and the Government, then headed by Sir Alexander Peacock, was preparing to submit a motion to continue the Factories and Shops Act for a further period of time in order to permit the Royal Commission to complete and submit its report.[2] Before this could be done, however, a vote of no confidence had been taken and passed in the Legislative Assembly. The Ministers thereupon resigned and a new Government was created under the leadership of Mr. W. H. Irvine.

[1] Report of Royal Commission appointed to Investigate and Report on the Operation of the Factories and Shops Law of Victoria, 1903. (Introductory letters.)

[2] Parl. Debates, vol. 100, pp. 3–4.

The year 1902 marks a crisis in the history of the wages boards in Victoria. The country was experiencing a business depression, in part at least the consequence of a drought. There was much unemployment and complaints were made that the fixing of high minimum wages was responsible for the unemployment. The country districts were concerned lest the principles of a minimum wage and of a reduction of hours should be applied to the rural industries.[1] Industrial disturbances caused by the awards of the wages boards in the fell-mongering and brush industries had also caused hostile criticism of the wages boards.

The Fell-Mongers Board which had been authorized by a resolution of Parliament dated October 11, 1900, was duly elected on March 19, 1901. Shortly after the board meetings began, the employers' representatives resigned in a body because a resolution had been carried in the board meeting fixing the usual hours of work at 48 per week. It was pointed out to the employers that it was impossible to say what effect this would have on the trade until the wages had been determined. The chosen representatives would not recede from their position; neither would other employers come forward to take the places of those who had resigned. Under the circumstances the Governor in Council on June 11, 1901, appointed five persons from outside the trade to represent the employers. The board thus constituted reached a determination which came into force on August 2, 1901. The employers in the trade took strong objections to the determination reached in this way and appealed to a Supreme Court Judge for a rule *nisi* to quash the determination on the following grounds: (1) That the persons who purported to have been appointed, without election, by the

[1] Parl. Debates, vol. 100, pp. 13–14, and elsewhere.

Governor in Council, were not and could not be representatives of the employers under the Act; (2) that the Board had no jurisdiction to fix prices or rates for watchmen; (3) that the limitation of one apprentice or improver to every eight workmen was unreasonable; (4) that the Governor in Council had no power to appoint one special board for fell-mongers, or wool-scourers, or tanners of sheepskins. The Court's decision was in favor of the Crown on every point except the second, where it was decided that the board had exceeded its jurisdiction. This decision was given on September 7, 1901. The majority of the employers then closed their establishments and the employees were thrown out of work. The men nevertheless were determined to uphold the determination and did not ask the Government to alter it in any way. After a time some of the yards resumed operations but others continued idle.[1] This was the situation when Parliament convened.

The trouble in the brush industry concerned only a single employer. Mr. Laurence Jones, a brush manufacturer who had come from England about the year 1900, had established a factory at Heap-Lane, Melbourne. He expended about £3000 for machinery and employed about fifty females in his establishment. He claimed that he taught these women their trade and paid them from 17 s. ($4.13) to 20 s. ($4.87) per week, "with which they were perfectly satisfied."[2] Mr. Samuel Mauger, Secretary of the Anti-Sweating League, maintained that an investigation showed that the earnings of the women in this factory ranged "from 7 s. ($1.70) to 9 s. ($2.19) a week to do what was really men's work."[3]

[1] Report of Chief Inspector for 1901, pp. 23–24.

[2] Letter from Laurence Jones, Parl. Debates, vol. 100, p. 275.

[3] Letter to The Age, quoted in Parl. Debates, vol. 100, p. 775.

The employers in the other brush factories asked for a wages board which, on being elected, fixed the wages at 45 s. ($10.94) a week for " all persons employed at bass and hair pan work." This work consisted of making heavy brooms, such as are frequently used in cleaning streets, and the Board apparently thought that women should not be employed in this branch of the work. Mr. Jones protested against the determination and induced his employees also to protest, but the Board would not alter its determination and the Minister of Labor, Mr. Murray, would not refuse to gazette it. Mr. Jones, thereupon, removed his business to Tasmania, which at that time had no legislation regulating wages.[1]

The new Government at once assumed a hostile attitude towards the wages boards legislation. Mr. Irvine, the Premier, declared that the Factories and Shops Act was " practically strangling industries which were in a very flourishing condition before the Act was passed," and, he continued, " I refer more particularly to the fell-mongering business." [2]

The new Minister of Labor, Mr. John Murray, had, prior to his acceptance of a ministerial position, in his speech on the no-confidence motion on June 3d, expressed his opinion of the wages boards in these words:

> While the Factories Act is in itself inherently good, the administration of that act has been infernally bad, and it is the bad administration of a good act that has conduced so much to the unpopularity of the measure. Who is responsible for that administration ? Why the Premier [Mr. Peacock] himself. The wages boards have done more to wreck factory legislation in the minds of the people — and the determinations of these boards, it must be

[1] Parl. Debates, vol. 100, pp. 775–777. It would be interesting to know what Mr. Jones has done since Tasmania has enacted wages boards legislation.

[2] Parl. Debates, vol. 100, p. 19.

remembered, have been approved of in every instance by the honorable gentleman who administers the act — than anything in the Factories Act itself.[1]

A few weeks later Mr. Murray, as Minister of Labor, had to move the continuance of the Factories Act, including the existing wages boards, for another six months and was obliged to endure considerable " chaffing " from Sir Alexander Peacock, now leader of the Opposition, for his apparently sudden conversion.[2]

Altho there was little resistance to the passage of the Continuation bill in the Assembly, it was made the object of bitter attack in the Council. While the opponents of the wages boards would not declare that they would refuse to vote in favor of a continuation of the Factories Act, they succeeded in postponing from week to week a vote on the measure, claiming that the report of the Royal Commission would soon be ready and that there would be time enough to prepare a new bill based on the information supplied by the Commission. In the meantime the long pent-up feeling against the wages boards had an opportunity to vent itself in the debates. The friends of the wages boards in the Council were either too timid to make reply or considered that it was best not to delay a vote on the measure by attempting to answer the charges made against it. Members from the country districts suffering from the drought expressed the fear that capital was being driven out of the country by the wages board determinations. The occasion for this fear was the closing of the fell-mongering establishments, which made it necessary to send sheepskins out

[1] Parl. Debates, vol. 100, p. 58. When I was in Melbourne in the early part of 1912, Mr. Murray was Premier of Victoria. In a conversation which I had with him he expressed the opinion that the wages boards system was proving very satisfactory and that opposition to it had practically died away.

[2] Parl. Debates, vol. 100, pp. 89, 110.

of Victoria to be worked up.[1] Other speakers complained that the boards fixed the minimum wage so high that instead of benefiting employees it threw the weaker ones out of work. The Factories Act was said to be "a law to crush out the weak."[2] Still others objected to "the new religion — that unless a trade could give a man the highest possible amount of wages it ought not to be a trade at all, and ought to be sent elsewhere. This simply transferred the burden from our own State to our neighbors, because these trades must be carried on somewhere."[3]

One member complained that the wages boards system took the management of business out of the hands of employers and placed it in the hands of the chairmen of the boards, men who were "not practical business men and very seldom knew anything at all, or at any rate knew very little of the particular business they were asked to arbitrate upon."[4]

It was said that the workers had not received increased pay from the operations of the law, and ingenious arguments taken from a pamphlet published by the Victorian Employers' Federation were used to show that the working classes could not benefit by such legislation. According to the writer of this pamphlet, the minimum wage, if applied to an over-supplied labor market "inevitably leads to selection amongst the operatives"; if based upon the earning power of workmen of average skill it means that "the man below the standard must be discharged"; acting in a market where labor is scarce "it is unnecessary, as wages then rise by the operation of the law of supply and demand."[5]

[1] Parl. Debates, vol. 100, p. 369.

[2] Ibid., p. 641.

[3] Ibid.

[4] Ibid., p. 713.

[5] Quoted in Parl. Debates, vol. 100, p. 774.

Not only the theory of the minimum wage came in for severe criticism in the Council but its administration was roundly scored. "One of the most prominent citizens" of Melbourne was quoted with approval as saying that the Factories Act was "being administered by an honest, energetic, well-meaning mono-maniac." [1] The Chief Inspector, Mr. Harrison Ord, was the gentleman thus characterized.

Altho urged in a half-hearted way by the Solicitor-General to hasten the passage of the continuation act, and altho informed by members of the Royal Commission that their report would not be ready for some time, the Council continued its policy of delay by postponing the time for a vote until September 10th, when Parliament was prorogued. Since the Factories Act lapsed with the end of the session of Parliament unless renewed, the State of Victoria suddenly found itself without any factory legislation except the antiquated and partially repealed statute of 1890. All the determinations of special boards ceased to have any legal effect at the same time.

The majority of the employers who had been working under wages boards' determinations did not take advantage of the lapse to reduce wages or otherwise to alter conditions. This was cited by the friends of the boards as evidence against the claim that the determinations were hampering industry.

The prorogation of Parliament was followed by its dissolution. The general elections resulted in a continuation of the Irvine Government and when Parliament again met that Government immediately brought in a bill for the revival of the Factories Act.

The bill was vigorously debated in both houses and the wages boards were attacked even more bitterly than

[1] Parl. Debates, vol. 100, p. 895.

at the preceding session. Aside from a strong speech made in their behalf by Sir Alexander Peacock, little was said in their favor. The opponents of the boards had gained boldness by the lapse of the determinations and were now willing to declare openly that they should not be revived. " The wages boards are dead and buried," declared one speaker, " and the cry on the part of some people is that it would be well to let them remain buried and not re-enact the wages boards sections of the Act." [1]

A new argument against the boards was that at the time the act providing for them was enacted there was no union of the Australian colonies. " Now that we have federation," it was said, " and have to compete with the other states of Australia, we should not be placed at a disadvantage in the competition by any restriction on trade such as the wages boards." [2]

Finally, after the Legislative Council had succeeded in having certain important amendments adopted, the Factories and Shops Continuation Act of 1902, which continued the act until October 31, 1903, and revived all but one of the determinations of special boards made prior to July 16, 1902, was passed and came into force on December 5, 1902. The amendments to the act made by the Council were far-reaching and had serious consequences.

The Fell-Mongers' Board and the determination which it had made were not revived, but a new board was created. This and all other boards which had not completed their determinations were made subject to the restriction that no determination should be gazetted unless it had been reached by at least two employers voting with the employees or two employees voting with the employers. The power of the Chairman to

[1] Parl. Debates, vol. 101, p. 243. [2] Ibid., p. 282.

vote was taken away. The Carriage Board was abolished. No new wages boards might be constituted and no determinations of any board might be extended to any shire.[1]

The amendment which took away from the Chairman the power to cast the deciding vote and made necessary some form of mutual agreement between employers and employees if a determination was to be reached, had a paralyzing effect upon the boards then in existence which had not yet made a determination. Only one of the eight, the Leather Goods Board, was able to reach a determination. This Board had about concluded its work when the prorogation of Parliament had caused a suspension of its activities and its determination would doubtless have been carried by a unanimous vote.[2] Under the circumstances it was not difficult to arrive at a determination when the Board was revived. The other seven boards, however, failed to accomplish anything. In one instance a representative of the employees resigned and no successor was elected; in another case the employers' representatives refused to vote, while in the remaining cases the chairmen were obliged to report that there was no prospect of an agreement being reached and the boards adjourned indefinitely.[3]

There were at the close of 1902 twenty-nine boards whose determinations had been reached prior to the lapse of the acts and which had been revived by Parliament. Through a mistake in the wording of the act, however, no way had been provided for amending or altering a determination and this was proving embarrassing, for trade changes frequently made alterations necessary.[4]

[1] Report of Chief Inspector for 1902, p. 4.

[2] Ibid., p. 35. [3] Ibid., pp. 34–36. [4] Ibid., p. 12.

The long-delayed Report of the Royal Commission Appointed to Investigate and Report on the Operation of the Factories and Shops Law of Victoria was completed in February, 1903, and presented to Parliament. The Commission had not limited its investigations to Victoria, but had visited other Australian states and New Zealand to study the operation of their laws. The investigation seems to have been a careful one and to have been conducted in no partisan spirit.

With reference to the wages boards the Commission declared that " despite grave abuses made by the boards . . . it may be conceded that they have effected a good deal of useful work in connection with the determinations." [1] The chief defects in the boards' work discovered by the Commission were (1) that the chairman usually had no technical knowledge of the trade, altho it was by his casting vote that decisions on any doubtful point were commonly made; (2) that the boards had no power to call for and take evidence on oath, or to examine books and records in any business; (3) that decisions reached oftentimes by a close vote were not subject to review by an independent tribunal; (4) that the law did not provide for granting permits to " slow and unskilful workmen," as it did for old and infirm workers.[2]

The Commission admitted that many of the employers who gave evidence looked with critical eyes upon the wages boards, saying that they had made very serious mistakes which tended to hamper and restrict industry, such as fixing the minimum wage too high, unduly restricting the number of apprentices and improperly regulating over-time and piece-work. Great stress was laid by these employers on the fact that

[1] Report of the Royal Commission, p. xxxii.

[2] Ibid., pp. xxxi–xxxvi.

determinations had been reached by the casting vote of chairmen, who did not give proper consideration to the wage increase which industries could bear but were governed by what they considered to be " the cause of humanity " and when a doubt existed gave the benefit to the wage earner.

To satisfy themselves as to the truth of these allegations, the Commission investigated the conditions in all trades (11 in all) in which a determination had been in force long enough for the results to have become known. It was found that while mistakes had been made in the first award in the boot industry and in the awards in the printing and wood-working industries, on the whole the evil effects of wages boards' determinations had been greatly exaggerated in and out of Parliament. The export trade of all the industries which had an export trade at the time the board determinations went into effect had shown a substantial gain. The number of employees had not diminished except in the trades where much machinery had been introduced, altho the European furniture trade had shown no marked increase. Sweating, it was declared, had practically disappeared.[1]

The Commission concluded its report on the work of the wages boards by stating that while the evidence showing that serious errors had been made by the boards

has to be admitted, we recognize that there cannot, in the circumstances of the time be any return to the old conditions of freedom of contract in factory labor. The well-being of thousands of wage earners with thousands of others dependent on them, rests on a humane, well-conceived, and properly administered law for the protection of this kind of labor. It is clearly our duty, therefore, not to destroy the good work already done in the cause of humanity and justice, but to so modify and correct defects which experience has

[1] Report of the Royal Commission, pp. xxxv–lx.

shown to exist that the best principles of our factory legislation may be maintained and extended, altho in a different form.[1]

The members of the Commission had been greatly impressed with the New Zealand Conciliation and Arbitration Act, which despite certain admitted defects the Commission declared to be " the fairest, the most complete and the most useful labor law on the statute books of the Australian states." [2] They therefore recommended the adoption of this system in Victoria, with such modifications as experience had shown to be needful. Other and less radical changes in the Factories Act were also recommended.

Parliament seems to have been very little impressed by the recommendation of the Royal Commission that the system of compulsory arbitration be substituted for the wages boards. When it reassembled in September, 1903, the Government introduced a bill to continue the Factories Act indefinitely but proposed several important amendments to the wages boards plan. The Minister of Labor, Mr. Murray, who introduced the bill and who, it will be remembered, showed no enthusiasm for the boards in 1902, now said that he did not think the New Zealand laws had proved satisfactory [3] and that the Victorian " system of an arbitrary fixing of a minimum wage is a provision I am prepared to defend, as against all other propositions that have been made, or against all systems that are in operation elsewhere." [4] He presented statistics which showed that the growth of those industries which were under the wages boards plan had been fully as great as that of the trades not included, so that there was no truth in the oft-repeated assertions that the wages board system was preventing the growth of industry.[5]

[1] Report of the Royal Commission, p. lxv.
[2] Ibid., p. xxiii.
[3] Parl. Debates, vol. 105, pp. 45, 52.
[4] Ibid., p. 46.
[5] Ibid., pp. 47–50.

The debate on the continuation bill was very lengthy and the wages boards were defended by most speakers on both sides in the Assembly. There was doubtless truth in the statement made by one speaker that some members favored the wages boards because they feared that if they were not continued a "worse system" (compulsory arbitration) would soon follow.[1]

In the Council the wages boards were attacked with the usual vigor. They were said to have obstructed commercial progress, driven money out of the country, brought about a great loss of population, thrown the inferior workers out of employment, prevented the youth of the country from learning trades, brought all workers down to the same level, made the minimum wage the maximum and destroyed the ability and enterprise of individual workers.[2] On the other hand it was said that they had not prevented sweating nor put an end to strikes.[3]

There was little evidence brought forward to sustain these allegations but they served to show the uncompromising attitude on the part of many members of the Council. A fair sample of the arguments made in the upper house is contained in the following statement made by N. Levi. He was

> entirely opposed to the wages boards system. The Supreme Being and Creator of mankind, who decreed that all human creatures should work for their living, allowed them their free will to accept whatever remuneration they were disposed to take for their services and never meant that they should be prevented by human laws from taking whatever wages they saw fit.[4]

The Council proceeded to pass an amendment to the bill which limited the scope of the boards' determinations to females of any age and to males under the age of 21.[5] When news of this action reached the ears of the

[1] Parl. Debates, vol. 105, p. 691.
[2] Ibid., pp. 668–685.
[3] Ibid., p. 677.
[4] Ibid., p. 666.
[5] Ibid., p. 758.

Ministers and of the outside public, such a storm of opposition was created that the Council decided to recommit the bill to the committee where the objectionable amendment was cut out. The Council however insisted on amendments which took away from the wages boards their power to limit the number of indentured apprentices in any trade and which required that in the future no new boards be constituted without the consent of both houses of Parliament. Finally, the Council refused to make the Factories Act a permanent one but limited its duration to December 31, 1905.

In view of the open hostility to the wages boards in the Council and in view of the fact that practically no one in that house supported them in debate, it may cause surprise that the bill for the continuance of the Factories Act was allowed to pass at all. The explanation may be, in part, that changes had recently been made in the mode of selecting members for the Council whereby it became much more of a representative Chamber. The public meetings held to uphold the wages boards legislation and to express disapproval of the Council's attitude thereto probably caused some members of that body to feel that they were not voicing the views of their constituents. This, together with the fact that the Council was able to incorporate several important amendments in the bill, led to the decision to continue the wages boards.[1] Altho still a temporary measure, the Factories and Shops Act with its provision for establishing a minimum wage in industries had successfully passed its crisis and in 1905 there was little difficulty in having the act made a permanent one.

[1] An influential factor was the speech of Sir Henry Wrixon, whose opinions were held in much respect by the Council. At a critical stage in the consideration of the bill he took the floor and urged that the bill be passed in spite of what he was willing to admit were its defects.

4. Growing Popularity of Wages Boards in Victoria

The Factories and Shops Act of 1903 in Victoria introduced the following changes in the wages boards legislation. (1) The amendment to the law in 1902 whereby two employers' representatives must vote with the employees or two employees' representatives with the employers in order to reach a determination was repealed and the right to cast the deciding vote in case of a tie was restored to the Chairman. (2) A Court of Appeals was created to pass on cases in which either employers, employees, or the Minister wished to take an appeal from the decision of a board. The Court was to consist of a Supreme Court Judge, aided, if he so desired, by two assessors, representing both the conflicting interests, to give the judge advice on technical points. The assessors, however, were not given the right to vote. (3) New special boards might be created if the resolution authorizing them were adopted by both houses of Parliament. (4) Special boards were no longer to place limitations on the number of apprentices in any trade or business. (5) The Chief Inspector was empowered to grant permits to " slow " workers as well as to old and infirm ones and on the same conditions. (6) The boards might, if they saw fit, fix the special wages or rates at which old, infirm or slow workers might accept employment. (7) In reaching a determination as to the minimum wage or price to be paid to any worker each special board was instructed to ascertain the average wage or price " paid by reputable employers to employees of average capacity " and to fix the minimum wage or rate no higher than such average. If the board believed that the average was too low to serve as a minimum it might refer the matter

to the Court of Appeals. (8) The Minister was given power to nominate the members of any special board and unless one-fifth or more of the employers or employees respectively objected within twenty-one days to the persons nominated to represent them, the persons nominated might be appointed members of the board by the Minister. If one-fifth of the employers or employees did object, an election was to be held the same as hitherto.

This last amendment was one which received the strong indorsement of Sir Alexander Peacock, leader of the Opposition. Sir Alexander has always favored the appointment rather than the election of the board members. His reasons are well set forth by the following extract from his speech on the adoption of the amendment. He said:

> I am confident that the great defect that has arisen in connection with our wages boards is owing to the fact that the representatives on the respective sides, before they are elected at all, have made pledges as to what they would do when they came to deal as jurymen with questions to which they should give the fairest attention, recognizing all interests; and then having made those pledges the questions that come before them are pre-judged before any evidence is taken. . . . We know that candidates for election to the wages boards have canvassed for votes, and have pledged themselves to ask for certain rates of wages, and that on the other side the employers' representatives have pledged themselves beforehand to insist on the wages being as low as possible. That was all done before any evidence was taken to determine what the proper rates were. For three years we tried that system and my experience in administering the act was exactly what I have said.[1]

In August, 1905, the Government introduced the bill to consolidate and make permanent the nine existing laws relating to factories and shops. No changes were made in the laws themselves. In introducing the measure the Minister of Labor called attention to the

[1] Parl. Debates, vol. 105, pp. 116–117.

fact that in 1896, the year when the wages boards plan was introduced into legislation, the number of workers registered in factories was 40,814; in 1904 it was 60,977.[1] He said:

> If these figures prove anything, I think that they prove that the laws relating to factories have not in any way impeded the progress of trade in this country. I think those figures also prove the efficacy and great advantage of having these industrial laws in the State. No doubt, in the early history of these Acts, there was very considerable friction in connection with the position of employer and employees. I think I am correct in stating that the Acts are now working smoothly, and that a much better feeling exists — almost the best of feeling — between both sides, and that the employers as well as the employees are thoroly well satisfied with the law as it obtains at present. I think that the hostile mood that was apparent in the early history of these Acts has disappeared, and that there is every prospect of success in connection with our industrial legislation.[2]

The early passage of the consolidating bill through both houses of Parliament gave evidence of the truth of the Minister's statement. The debates on the measure were very brief. Most of the speakers praised the acts for having prevented sweating and strikes and for improving the relations between masters and men.[3] Some little muttering of discontent was heard from those members who claimed that the acts were still in the " experimental " stage and should therefore not be made permanent, but this was but the lingering echo of the storm of opposition which had nearly swept the acts away in 1902–03.[4] When the time came for a vote the bill to consolidate and make permanent the existing factories legislation passed in both houses without a division.

Since 1905 no fundamental changes in the wages boards legislation have been made in Victoria, but the

[1] Parl. Debates, vol. 110, p. 906.
[2] Ibid., p. 906.
[3] Ibid., vol. 111, pp. 1608–1612.
[4] Ibid., p. 1611.

powers of the boards have been steadily increased. The provision in the 1905 act by which every board was instructed to ascertain the average wages "paid by employers to employees of average capacity" was found to be unsatisfactory and to hamper the work of the boards. It was accordingly repealed in 1907.[1] In 1909 Parliament provided that District Boards might be appointed in the mining industry instead of one board for the entire State and that any district board might make its determinations apply to any part of such district as it saw fit. At the same session of Parliament power was given to the Governor in Council to authorize the boards to take into consideration in fixing the lowest rates of pay the following matters: (*a*) the place or locality where the work was to be done; (*b*) the hour of the day or night when the work was to be performed; (*c*) whether more than six consecutive days' work was to be done and to fix special prices or rates for work done on Sundays or holidays; (*d*) the time of beginning and ending work upon each day and the special rate of pay for work done at any hours other than those fixed for any day; (*e*) whether the work was casual, *i. e.*, for less than a day.[2]

At every session of Parliament since 1905 resolutions have been carried in both houses for the appointment of new wages boards, until at the close of 1913 there were in existence or authorized 134 special boards in as many trades or occupations. The Chief Inspector estimated that about 150,000 workers had their minimum rates of pay determined by such boards.[3] Not only has the number of trades for which boards are provided continued to increase but their scope has

[1] Report of Chief Inspector for 1907, p. 3.

[2] Report of Chief Inspector for 1909, p. 4.

[3] Report of the Chief Inspector for 1913, p. 6.

constantly widened. The idea that the boards were to operate only in the sweated trades has long been abandoned. No longer is the board plan of wage regulation limited to manufacturing industries. Asphalters, bill posters, bread carters, carpenters, coal miners, commercial clerks, dressmakers, electroplaters, factory engine drivers, gold miners, furniture dealers, gardeners, grocers, hotel employees, livery-stable employees, milliners, night-watchmen, office-cleaners, quarrymen, shop assistants (retail clerks), sorters and packers, tea packers, timber-fellers, tuck-pointers and many other classes of employees have their minimum wages and maximum hours fixed by such boards.[1]

In some industries and occupations two boards are appointed, one for the metropolitan area (Melbourne and suburbs) and the other for the country districts. Thus there are the flour board and the country flour board, the printers' board and the country printers' board, the country shop assistants' board, etc.[2] No effort has as yet been made in Victoria to provide wages boards for distinctly agricultural callings. Doubtless the country prejudice against such legislation still survives. Nor has there been any effort to regulate the wages or hours of domestic servants by means of such legislation. But practically every other field of industry has been invaded and Mr. Alfred Deakin's prediction, made in 1895, that "one day or other these boards will be established in every trade" comes well-nigh realization within the life of that gentleman.

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[1] The full list of boards is given in the Annual Report of the Chief Inspector of Factories.

[2] Report of Chief Inspector for 1913, p. 6.